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Note verbale dated 28 October 2004 from the Permanent Mission of Sweden to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Sweden to the United Nations presents its compliments to the Chairman of the Committee and, with reference to the latter's note dated 21 June 2004, has the honour to submit the report on the implementation of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 28 October 2004 from the Permanent Mission of Sweden to the United Nations addressed to the Chairman of the Committee

Report on the Implementation of Security Council Resolution 1540 (2004)

28 October 2004

SWEDEN

Sweden has a long tradition of strong engagement for disarmament and non-proliferation and is committed to multilateral approaches to meet the threats of proliferation of weapons of mass destruction. Sweden will contribute in a constructive manner in order to enhance the overall implementation of resolution 1540. In this context it is important to work towards universality, adherence and compliance with the international treaties in this field. Measures to counter proliferation fall upon States. Each state has to determine what penalties and measures to adopt. Promoting verification and transparency as well as safeguarding that measures to implement the resolution are consistent with international law and the United Nations Charter, are important factors in this regard.

As Sweden is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU Report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

Sweden is a party to the 1925 Geneva Protocol, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention (CWC), the Biological and Toxin Weapons Convention (BTWC) and the Comprehensive Test Ban Treaty (CTBT). Sweden is a subscribing State to the Hague Code of Conduct Against Ballistic Missile Proliferation (HCOC).

Sweden participates in the following export control regimes: The Zangger Committee, the Nuclear Suppliers Group, the Australia Group, the Wassenaar Arrangement, and the Missile Technology Control Regime.

A number of Swedish authorities co-ordinate with the purpose to share information and prevent proliferation of weapons of mass destruction as well as their means of delivery. Convening authority is the National Security Service. The main tasks are to collect and exchange information and to improve co-ordination of the non-proliferation efforts and preparedness.

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

As detailed under Operative Paragraph 2, the attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, is prohibited under Swedish law.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them

As noted in the EU Common Report, Article 1(f) of the EU Framework Decision on Terrorism of 13 June 2002 provides that "manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons" must be deemed as terrorist offences when committed with a terrorist intent as provided in the Framework Decision. Article 4 of the Framework Decision also covers, in principle, inciting, aiding or abetting and attempting these behaviours. Sweden has fully implemented the EU Framework Decison by the Act on Criminal Responsability for Terrorist Crimes complemented by general provisions in the Swedish Penal Code.

Obligations under the NPT, CWC, BTWC and CTBT are fully implemented in Swedish law. The conduct mentioned in Operative Paragraph 2, especially when there is an intent to commit a terrorist crime or an intent to commit any other crime, also falls under a number of general provisions in the Swedish Penal Code, i.a. murder, creating danger to another, sabotage, devastation, endangering the public, spreading poison or a contagious substance and unlawful handling of chemical weapons. In order to implement the commitments under the CTBT the Swedish Parliament has decided the special provision "carrying out an unlawful nuclear explosion". This special provision will enter into force pending the entry into force of the CTBT. Inciting, aiding and abetting as an accomplice is criminalized for all the mentioned crimes. Furthermore, for a majority of them so called in choate offences such as conspiracy, preparation and attempt are criminalized. The criminalization also covers the financing of a crime. For several of the mentioned crimes in the Penal Code and for terrorist crimes according to the Act on Criminal Responsability for Terrorist Crimes, Swedish courts have universal jurisdiction. By the Act on Criminal Responsability for the Financing of Particularly Serious Crime in some cases, etc., Sweden has fully implemented the UN International Convention for the Suppression of the Financing of Terrorism.

The handling of substances that might be used for a nuclear, chemical or biological weapon requires a licence from the Government. The handling of such substances without a licence is criminalized.

Relevant Swedish laws and regulations:

- Several general provisions in the Swedish Penal Code, see above;
- Act on Criminal Responsability for Terrorist Crimes (SFS 2003:148). Maximum penalty is life imprisonment;
- Act on Criminal Responsability for the Financing of Particularly Serious Crime in some cases, etc. (SFS 2002:444);
- The Nuclear Activities Act (SFS 1984:3) and Ordinance on Nuclear Activities (SFS 1984:14);
- Radiation Protection Act (SFS 1988:220) and Radiation Protection Ordinance (SFS 1988:293);

- The Military Equipment Act (SFS 1992:1300) and The Military Equipment Ordinance (SFS 1992:1303);
- Act on Transport of Dangerous Goods (SFS 1981:821);
- Environmental Code (SFS 2000:271);
- Act on Flammables and Explosives (SFS 1988:868).

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

***(a)** Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;*

Sweden is a party to the Safeguards Agreement (INFCIRC/193) between Euratom, the EU Non-Nuclear Weapon States and the IAEA as well as its Additional Protocol. Legislation on accountancy and control, implementation of the Safeguards Agreement and Sweden's obligations in accordance with the Euratom Treaty is provided for in The Nuclear Activities Act (SFS 1984:3), Ordinance on Nuclear Activities (SFS 1984:14), The Act on the Control of Dual-use Items and of Technical Assistance (SFS 2000:1064), and The Act Concerning Inspection in Accordance with International Agreements Preventing the Proliferation of Nuclear Weapons. A new Swedish regulation regarding the implementation of nuclear materials control and export control in the nuclear field is foreseen to be issued in 2005.

Sweden has established a national licensing system for chemicals included in Schedule 1 of the CWC, and has implemented the reporting requirements in accordance with the Convention.

The export of pathogens and toxins that are dual-use items are controlled by the EU regulation, Council Regulation (EC) No. 1334/2004. Furthermore, the import of chemical precursors is controlled by the National Inspectorate of Strategic Products Regulations on the Control of Chemical Precursors (TFS 2000:26). Anyone who professionally produces, prepares, uses, imports or exports chemical precursors must submit a declaration to the Swedish national authority, National Inspectorate of Strategic Products, annually. The Inspectorate can make compliance visits at the company concerned and has the right on request to obtain the information and documents that are necessary for checking the company in question.

Under existing legislation, based on Directive 90/219/EEC, as amended by Directive 98/81/EC, and 2000/54/EC, work with microorganisms must be subject to a risk assessment and, with a few exceptions, notified to or permitted by the Swedish Work Environment Authority, which is the supervisory authority. The risk assessment forms the basis for the protective measures that have to be applied to prevent or counteract harm to human health or to the environment. Other relevant provisions are the regulations of the National Board of Occupational Safety and Health on Contained Use of Genetically Modified Organisms (AFS 2000:5) and on Biological Agents (AFS 1997:12).

(b) Develop and maintain appropriate effective physical protection measures;

Sweden is a party to the Convention for the Physical Protection of Nuclear Material, CPPNM. Sweden implements the recommendations on the physical protection of nuclear material and nuclear facilities (INFCIRC/225/Rev4) through regulations issued by the Swedish Nuclear Power Inspectorate. They are also part of the licensing conditions for nuclear power facilities. A revised regulation strengthening physical protection measures at Sweden's nuclear facilities is at present under consideration.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Being responsible for controlling the cross-border flow of goods and travellers at Sweden´s borders, the Swedish Customs Service has, through Community and national legislation, jurisdiction to fight the illicit trafficking af NBC weapons and their means of delivery. The Swedish Coast Guard, being responsible for controlling the cross-border flow of goods, travellers and migration by sea, has similar jurisdiction as the Swedish Customs Service and the Swedish Police to fight illicit trafficking.

Relevant customs legislation (Community and national legislation):

- Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code;
- Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code;
- The Swedish Customs Act (SFS 2000:1281);
- The Swedish Customs Ordinance (SFS 2000:1306);
- Provisions on Customs matters issued by the Swedish Customs (TFS 2000:20);
- The Act Concerning the Powers of the Customs administration at Sweden's borders with other EU-countries (SFS 1996:701);
- The Ordinance Concerning the Powers of the Customs administration at Sweden's borders with other EU-countries (SFS 1996:702);
- Supplementary provisions issued by the Swedish Customs (TFS 1996:21).

Relevant export control legislation:

- The Military Equipment Act (SFS 1992:1300);
- The Military Equipment Ordinance (SFS 1992:1303);
- Supplementary provisions issued by the Swedish Customs (TFS 1997:35);
- Council Regulation (EC) No. 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology;
- The Act on the Control of Dual-use Items and Technical Assistance (SFS 2000:1064);
- The Ordinance on the Control of Dual-use Items and Technical Assistance (SFS 2000:1217);
- Supplementary provisions issued by the Swedish Customs (TFS 2000:29).

With regard to appropriate mutual assistance legislation and agreements, there should be mentioned Council Regulation (EC) No. 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, bi- and multilateral agreements on administrative assistance in customs matters signed by the Swedish Government, and supplementary provisions to these agreements issued by the Swedish Customs Service. Penal provisions are given in the Act on Penalties for Smuggling (SFS 2000:1225).

The Swedish Customs Service is planning to reinforce its NBC control capability by i.e. establishing specially trained NBC control groups with the purpose to improve the capability to handle CBRN agents, if such agents are found during a control of goods.

(d) *Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations*

Beside Council regulation (EC) No. 1334/2004, the Swedish legislation includes the following laws and regulations: The Act on the Control of Dual-use Items and Technical Assistance (2000:1064) and Ordinance on the Control of Dual-use Items and Technical Assistance (2000:1217); and the National Inspectorate of Strategic Products Regulations on the Control of Chemical Precursors (TFS 2000:26). The export of relevant items that are considered as military equipment is regulated in the Military Equipment Act (1992:1300) and the Military Equipment Ordinance (1992:1303).

The laws and regulations stipulate that an export requires export licence. In most cases an end-user statement is mandatory. For military equipment a permit is required for the manufacture and the brokering of military equipment. Illegal exports are punished by fines or imprisonment for up to two years according to the Act on Penalties for Smuggling (2000:1225) and corresponding rules in the Act 2000:1064. Transit and trans-shipment is controlled by the requirement for an export licence.

Operative paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons

As stated above, Sweden is a party to the NPT, the CWC and the BTWC. Sweden is a member of the IAEA and the OPCW, and takes an active part in the continuing work to strengthen the BTWC and its implementation.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists

The Council Regulation (EC) No. 1334/2000 contains an extensive list of controlled items as does the Military Equipment Ordinance (1992:1303).

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

Sweden is providing technical support and advice with a view to promote implementation of the CWC, often in co-operation with the OPCW. These activities will continue. Assistance might, to some extent, also be geared towards specific requests for help to implement resolution 1540.

Operative Paragraph 8

Calls upon all States:

(a) *To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;*

Sweden as a member of the EU takes active part in the implementation of the EU Strategy against proliferation of weapons of mass destruction, adpoted by the European Council on 12 December 2003. Information on the strategy is provided in the European Union report on the implementation of the UNSCR 1540.

(b) *To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;*

As noted under Operative Paragraph 2 and 3, Swedish legislation is in full compliance with the commitments under the key multilateral non-proliferation treaties.

(c) *To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;*

Sweden is a member of the IAEA since 1957 and was elected to its Board of Governors by the General Conference in September 2004. The IAEA's role in verifying compliance with the NPT is of crucial importance and of particular relevance to resolution 1540.

Sweden attaches great importance to the CWC and its implementation. Through its national authority, the National Inspectorate for Strategic Products, Sweden participates in bilateral and regional exchanges on CWC implementation. Advice and support is, often in co-operation with the OPCW, extended to other States Parties on legislation issues and other matters of implementation of the Convention.

A priority area for Sweden under the BTWC is the strengthening of the Convention in the area of verification and on improving international capabilities for responding to, investigate, and mitigate the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease. Nationally, a process for handling an alleged use of biological agents and the investigation that goes with it has been initiated in Sweden. This process involves the two essential components necessary for a successful investigation, i.e. disease control and forensic investigation. Examples of governmental authorities that are involved in this process are the Swedish Institute for Infectious Diseases, the Swedish National Police Board, Swedish Rescue Services Agency, the Swedish National Board of Health and welfare and the Swedish Defence Research Agency.

(d) *To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws*

The Swedish Nuclear Power Inspectorate is responsible on the national level, for practical nuclear non-proliferation (safeguards) in close co-operation with Euratom and the IAEA. The Inspectorate also promotes nuclear security by having an active dialogue with the nuclear industry.

In the area of preventing proliferation of biological or chemical weapons, Swedish authorities are engaged in outreach activities towards industry and academic institutions. The National Inspectorate for Strategic Products, beside its supervisory function, is engaged in a constant dialogue with the chemical industry about security and proliferation risks. The national Association of Chemical Industries also takes an active part in this work.

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

Sweden, as a longtime advocate of disarmament and non-proliferation, continues to promote dialogue and co-operation in order to address the proliferation threats.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficing in nuclear, chemical or biological weapons, their means of delivery, and related materials

Sweden has implemented the requirements on maritime security in the 1974 SOLAS Convention and the International Ship and Port Facility Security (ISPS) Code.

Sweden takes active part in the on-going revision of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention).

Sweden supports the Proliferation Security Initiative (PSI).